

**Filed 2/22/00 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2000 ND 19

Paula Strom-Sell,

Plaintiff and Appellant

v.

Council for Concerned
Citizens, Inc., Toni Austad,
William Wilkerson, President,
Board of Directors,

Defendants and Appellees

No. 990295

Appeal from the District Court of Cass County, East Central Judicial District,
the Honorable Norman J. Backes, Judge.

AFFIRMED.

Per Curiam.

Paula Strom-Sell, pro se, 1122 25th Street North, Fargo, ND 58102, plaintiff
and appellant.

Toni Austad (argued), pro se, 2216 5th Avenue S.W., Great Falls, MT 59404,
and William Wilkerson, pro se, 2913 9th Street N.E., Great Falls, MT 59404,
defendants and appellees.

Strom-Sell v. Council for Concerned Citizens

No. 990295

Per Curiam.

[¶1] Paula Strom-Sell appeals from the trial court’s order denying her motion for a stay of execution. Essentially, Strom-Sell’s present appeal challenges an award of costs and disbursements which was part of a judgment previously affirmed by this Court in Strom-Sell v. Council for Concerned Citizens, Inc., 1999 ND 132, 597 N.W.2d 414. We conclude this appeal is frivolous and completely without merit, and therefore, we summarily affirm under N.D.R.App.P. 35.1(a)(1).

[¶2] In addition, this Court awards Appellees costs on appeal to be taxed and allowed in the court below under Rule 39, N.D.R.App.P., and damages in the amount of \$1,000 under Rule 38, N.D.R.App.P. Under Rule 38, this Court may award “just damages and single or double costs including reasonable attorney’s fees” if we determine an appeal is frivolous. We have stated an appeal is frivolous if it is “flagrantly groundless, devoid of merit, or demonstrates persistence in the course of litigation which could be seen as evidence of bad faith.” Matter of Estate of Opatz, 554 N.W.2d 813, 817 (N.D. 1996). This is such an appeal. We, therefore, direct the Clerk of the Supreme Court to enter judgment for the Appellees accordingly.

[¶3] We hereby order that this decision be published in the regular manner, as provided under N.D.R.App.P. 35.1(c).

[¶4] Gerald W. VandeWalle, C.J.
Mary Muehlen Maring
William A. Neumann
Dale V. Sandstrom
Carol Ronning Kapsner